

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MICHAEL D. HARRIS,

Petitioner,

Case Number: 2:05-CV-74316

v.

HONORABLE AVERN COHN

HUGH WOLFENBARGER,

Respondent.

_____ /

ORDER
DENYING PETITIONER'S MOTION FOR DNA TESTING UNDER
TITLE 18 U.S.C.A. SECTION 3600(a)(1)(B)(i) (Doc. 74)

I.

This is a habeas case under 28 U.S.C. § 2254. It was closed in 2007 when the Court denied habeas relief and denied a certificate of appealability. See Docs. 63, 68. On March 17, 2008, the Court of Appeals for the Sixth Circuit also denied a certificate of appealability. *Harris v. Wolfenbarger*, No. 07-2118 (6th Cir. 2008) (Doc. 73).

Over three years later, Petitioner filed a "Motion for DNA Testing Under Title 18 U.S.C.A. § 3600(a)(1)(B)(i)." (Doc. 74). For the reasons that follow, the motion is DENIED.

II.

As an initial matter, the motion is not properly before the Court because this case is closed. Thus, the motion can be denied on this ground. Moreover, the Innocence Protection Act of 2004, 18 U.S.C. § 3600, allows *federal* prisoners to move for court-ordered DNA testing if certain prerequisites are met. See 18 U.S.C. §

3600(a)(1)-(10). Petitioner challenged and is incarcerated pursuant to a *state* court conviction. Therefore, even if the motion was properly brought, Petitioner is not entitled to the relief he seeks. See *Young v. Philadelphia County Dist. Attorney's Office*, 341 F. App'x 843 (3d Cir. Aug. 11, 2009).

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: August 15, 2012

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, August 15, 2012, by electronic and/or ordinary mail.

S/Julie Owens
Case Manager, (313) 234-5160